

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TERI J. McDERMOTT,	:
	:
Plaintiff,	: Case No.: 11 CIV 4161 (BSJ)
	:
v.	:
	: <u>ANSWER</u>
WOLTERS KLUWER HEALTH, INC., OVID	:
TECHNOLOGIES, INC. and EBSCO PUBLISHING,	: JURY TRIAL DEMANDED
INC.,	:
	:
Defendants.	:
-----X	

ANSWER OF EBSCO PUBLISHING, INC.

Defendant, EBSCO Publishing, Inc. ("EBSCO"), by its attorneys, hereby answer the Complaint of plaintiff Teri J. McDermott ("McDermott") as follows:

In response to the numbered paragraphs of the Complaint, EBSCO states as follows:

1. To the extent that the allegations of paragraph 1 of the Complaint relate to a defendant other than EBSCO, it lacks knowledge or information sufficient to form a belief about the truth of those allegations of paragraph 1 of the Complaint, which has the effect of denying those allegations. EBSCO denies the allegations of paragraph 1 of the Complaint that relate to EBSCO.

2. EBSCO lacks knowledge or information sufficient to form a belief about the truth of those allegations of paragraph 2 of the Complaint, which has the effect of denying those allegations.

3. EBSCO denies that it is a medical publisher. The remaining allegations of paragraph 3 of the Complaint relate to a defendant other than EBSCO. To the extent a response to

paragraph 3 is required, EBSCO states that it understands Wolters provides information to various users. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 3, which has the effect of denying those allegations.

4. The allegations of paragraph 4 of the Complaint relate to a defendant other than EBSCO. To the extent a response to paragraph 4 is required, EBSCO states that it understands Ovid provides electronic content to various users. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 4, which has the effect of denying those allegations.

5. Admitted.

6. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 6 of the Complaint, which has the effect of denying those allegations.

7. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7 of the Complaint, which has the effect of denying those allegations.

8. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 8 of the Complaint, which has the effect of denying those allegations.

9. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 9 of the Complaint, which has the effect of denying those allegations.

10. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 10 of the Complaint, which has the effect of denying those allegations.

11. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 11 of the Complaint, which has the effect of denying those allegations.

12. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 12 of the Complaint, which has the effect of denying those allegations.

13. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 13 of the Complaint, which has the effect of denying those allegations.

14. With respect to the allegations against EBSCO contained in paragraph 14 of the Complaint, EBSCO denies that Wolters “transferred” four of the illustrations to EBSCO. With respect to the remaining allegations, EBSCO lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 14, which has the effect of denying those allegations.

15. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15 of the Complaint, which has the effect of denying those allegations.

16. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 16 of the Complaint, which has the effect of denying those allegations.

17. EBSCO denies the material allegations of paragraph 17 of the Complaint.

18. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 18 of the Complaint, which has the effect of denying those allegations.

19. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 19 of the Complaint, which has the effect of denying those allegations.

20. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 20 of the Complaint, which has the effect of denying those allegations.

21. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegation concerning Wolters' compliance with McDermott's alleged request, which has the effect of denying that allegation. EBSCO denies the remaining allegations of paragraph 21.

22. EBSCO admits that McDermott has filed this action.

23. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 23 of the Complaint, which has the effect of denying those allegations.

24. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 24 of the Complaint, which has the effect of denying those allegations.

25. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 25 of the Complaint, which has the effect of denying those allegations.

26. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 26 of the Complaint, which has the effect of denying those allegations.

27. EBSCO admits that the URLs referenced in this paragraph resolve to websites that contain online content. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 27, which has the effect of denying those allegations.

28. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 28 of the Complaint, which has the effect of denying those allegations.

29. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 29 of the Complaint, which has the effect of denying those allegations.

30. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 30 of the Complaint, which has the effect of denying those allegations.

31. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 31 of the Complaint, which has the effect of denying those allegations.

32. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 32 of the Complaint, which has the effect of denying those allegations.

33. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 33 of the Complaint, which has the effect of denying those allegations.

34. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 34 of the Complaint, which has the effect of denying those allegations.

35. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 35 of the Complaint, which has the effect of denying those allegations.

36. EBSCO admits that this paragraph accurately describes the website screenshot reproduced as part of this paragraph. EBSCO denies any remaining allegations of paragraph 36 of the Complaint.

37. Admitted.

38. EBSCO admits that this court has subject matter jurisdiction over this action.

39. Admitted.

40. EBSCO admits that this court has personal jurisdiction over it. With respect to the remaining defendants, EBSCO lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 40, which has the effect of denying those allegations.

41. EBSCO admits that venue is proper in this judicial district.

42. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 42 of the Complaint, which has the effect of denying those allegations.

43. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 43 of the Complaint, which has the effect of denying those allegations.

44. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 44 of the Complaint, which has the effect of denying those allegations.

45. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 45 of the Complaint, which has the effect of denying those allegations.

46. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 46 of the Complaint, which has the effect of denying those allegations.

47. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 47 of the Complaint, which has the effect of denying those allegations.

48. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 48 of the Complaint, which has the effect of denying those allegations.

49. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 49 of the Complaint, which has the effect of denying those allegations.

50. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 50 of the Complaint, which has the effect of denying those allegations.

51. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 51 of the Complaint, which has the effect of denying those allegations.

52. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 52 of the Complaint, which has the effect of denying those allegations.

53. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 53 of the Complaint, which has the effect of denying those allegations.

54. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 54 of the Complaint, which has the effect of denying those allegations.

55. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 55 of the Complaint, which has the effect of denying those allegations.

56. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 56 of the Complaint, which has the effect of denying those allegations.

57. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 57 of the Complaint, which has the effect of denying those allegations.

58. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 58 of the Complaint, which has the effect of denying those allegations.

59. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 59 of the Complaint, which has the effect of denying those allegations.

60. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 60 of the Complaint, which has the effect of denying those allegations.

61. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 61 of the Complaint, which has the effect of denying those allegations.

62. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 62 of the Complaint, which has the effect of denying those allegations.

63. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 63 of the Complaint, which has the effect of denying those allegations.

64. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 64 of the Complaint, which has the effect of denying those allegations.

65. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 65 of the Complaint, which has the effect of denying those allegations.

66. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 66 of the Complaint, which has the effect of denying those allegations.

67. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 67 of the Complaint, which has the effect of denying those allegations.

68. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 68 of the Complaint, which has the effect of denying those allegations.

69. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 69 of the Complaint, which has the effect of denying those allegations.

70. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 70 of the Complaint, which has the effect of denying those allegations.

71. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 71 of the Complaint, which has the effect of denying those allegations.

72. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 72 of the Complaint, which has the effect of denying those allegations.

73. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 73 of the Complaint, which has the effect of denying those allegations.

74. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 74 of the Complaint, which has the effect of denying those allegations.

75. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 75 of the Complaint, which has the effect of denying those allegations.

76. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 76 of the Complaint, which has the effect of denying those allegations.

77. EBSCO denies the allegations of paragraph 77 of the Complaint.

78. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 78 of the Complaint, which has the effect of denying those allegations.

79. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 79 of the Complaint, which has the effect of denying those allegations.

80. EBSCO admits that the screenshot depicted in paragraph 80 of the Complaint appears to be a screenshot taken from the internet. EBSCO denies any remaining factual allegations contained in paragraph 80 of the Complaint.

81. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 81 of the Complaint, which has the effect of denying those allegations.

82. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 82 of the Complaint, which has the effect of denying those allegations.

83. EBSCO admits that the screenshot depicted in paragraph 83 of the Complaint appears to be a screenshot from an internet website. EBSCO denies any remaining factual allegations of paragraph 83 of the Complaint.

84. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 84 of the Complaint, which has the effect of denying those allegations.

85. EBSCO admits that the screenshot depicted in paragraph 85 of the Complaint appears to be a screenshot from an internet website. EBSCO denies any remaining factual allegations of paragraph 85 of the Complaint.

86. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 86 of the Complaint, which has the effect of denying those allegations.

87. EBSCO admits that the screenshot depicted in paragraph 87 of the Complaint appears to be a screenshot from an internet website. EBSCO denies any remaining factual allegations of paragraph 87 of the Complaint.

88. EBSCO denies the material allegations in paragraph 88 of the Complaint.

89. EBSCO admits that the screenshot depicted in paragraph 89 of the Complaint appears to be a screenshot from an internet website. EBSCO denies the remaining material allegations in paragraph 89 of the Complaint.

90. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 90 of the Complaint, which has the effect of denying those allegations.

91. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 91 of the Complaint, which has the effect of denying those allegations.

92. EBSCO admits that the screenshot depicted in paragraph 92 of the Complaint appears to be a screenshot from an internet website. EBSCO denies any remaining factual allegations of paragraph 92 of the Complaint.

93. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 93 of the Complaint, which has the effect of denying those allegations.

94. EBSCO admits that the screenshot depicted in paragraph 94 of the Complaint appears to be a screenshot from an internet website. EBSCO denies any remaining factual allegations of paragraph 94 of the Complaint.

95. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 95 of the Complaint, which has the effect of denying those allegations.

96. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 96 of the Complaint, which has the effect of denying those allegations.

97. EBSCO lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 97 of the Complaint, which has the effect of denying those allegations.

98. EBSCO admits that the registration numbers and registration dates depicted in paragraph 98 of the Complaint reflect copyright registration numbers and dates of registration. EBSCO denies the remaining allegations of paragraph 98 of the Complaint.

COUNT ONE

99. EBSCO repeats and realleges the responses in paragraphs 1 through 98, above.

100. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 100 of the Complaint.

101. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 101 of the Complaint.

102. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 102 of the Complaint.

103. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 103 of the Complaint.

104. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 104 of the Complaint.

105. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 105 of the Complaint.

106. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these

allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 106 of the Complaint.

COUNT TWO

107. EBSCO repeats and realleges the responses in paragraphs 1 through 106, above.

108. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 108 of the Complaint.

109. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 109 of the Complaint.

110. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 110 of the Complaint.

111. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 111 of the Complaint.

COUNT THREE

112. EBSCO repeats and realleges the responses in paragraphs 1 through 111, above.

113. EBSCO denies the allegations in paragraph 113 of the Complaint.

114. EBSCO denies the allegations in paragraph 114 of the Complaint.

115. EBSCO denies the allegations in paragraph 115 of the Complaint.

COUNT FOUR

116. EBSCO repeats and realleges the responses in paragraphs 1 through 115, above.

117. To the extent that the allegations of this paragraph relate to a party other than EBSCO, it does not have knowledge or information sufficient to form a belief about the truth of these allegations. With respect to the allegations that concern it, EBSCO denies the allegations in paragraph 117 of the Complaint.

118. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 118 of the Complaint.

119. To the extent that the allegations of this paragraph relate to a party other than EBSCO, it does not have knowledge or information sufficient to form a belief about the truth of these allegations. With respect to the allegations that concern it, EBSCO denies the allegations in paragraph 119 of the Complaint.

120. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 120 of the Complaint.

121. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these

allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 121 of the Complaint.

122. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 122 of the Complaint.

COUNT FIVE

123. EBSCO repeats and realleges the responses in paragraphs 1 through 122, above.

124. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 124 of the Complaint.

125. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 125 of the Complaint.

126. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 126 of the Complaint.

127. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these

allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 127 of the Complaint.

128. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 128 of the Complaint.

129. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 129 of the Complaint.

130. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 130 of the Complaint.

131. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 131 of the Complaint.

132. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 132 of the Complaint.

133. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 133 of the Complaint.

134. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 134 of the Complaint.

135. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 135 of the Complaint.

136. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 136 of the Complaint.

COUNT SIX

137. EBSCO repeats and realleges the responses in paragraphs 1 through 136, above.

138. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 138 of the Complaint.

139. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 139 of the Complaint.

140. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 140 of the Complaint.

141. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 141 of the Complaint.

142. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 142 of the Complaint.

143. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 143 of the Complaint.

144. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these

allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 144 of the Complaint.

145. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 145 of the Complaint.

146. The allegations of this paragraph relate to a party other than EBSCO, and EBSCO does not have knowledge or information sufficient to form a belief about the truth of these allegations. To the extent that a response is required from EBSCO, EBSCO denies the allegations in paragraph 146 of the Complaint.

Ad Damnum Clause

EBSCO denies that McDermott is entitled to the relief she seeks.

Affirmative Defenses

In further response to the Complaint, EBSCO alleges and avers the following:

First Affirmative Defense

The Complaint, and each and every count thereof, fails to state a claim for which relief can be granted.

Second Affirmative Defense

To the extent not expressly admitted, EBSCO denies the material allegations of the Complaint.

Third Affirmative Defense

Any infringement by EBSCO on any copyright owned by McDermott is not knowing, willful, deliberate, wanton, or intentional.

Fourth Affirmative Defense

EBSCO is a licensee with the right to reproduce, display, adapt, and distribute the works at issue in this case.

Fifth Affirmative Defense

McDermott has not been damaged or injured by any act or omission of EBSCO.

Sixth Affirmative Defense

McDermott's copyright registrations are invalid.

Seventh Affirmative Defense

EBSCO believed in good faith that its conduct did not constitute an infringement of any copyright and began the alleged infringement in good faith under an appropriate license.

Eighth Affirmative Defense

McDermott's claims are barred by the doctrine of estoppel.

Ninth Affirmative Defense

Any alleged infringement by EBSCO is innocent and non-willful.

Tenth Affirmative Defense

After receiving notice of the alleged infringement from McDermott, EBSCO promptly blocked access to or removed the allegedly infringing material.

EBSCO reserves the right to add to or otherwise amend these affirmative defenses and other allegations and responses in this Answer as discovery proceeds.

Wherefore, EBSCO prays for the following relief:

- A. A judgment that McDermott take nothing from its Complaint and that McDermott's claims against EBSCO be dismissed, with prejudice.
- B. An award of attorneys' fees and costs in favor of EBSCO as prevailing parties, pursuant to 17 U.S.C. § 505.
- C. Such other, further, and different relief to which the Court deems EBSCO is entitled.

/s/ C. Whittaker Steineker
C. Whittaker Steineker
(SDNY Bar: WS0916)
Michael S. Denniston
Applying for admission pro hac vice
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***Attorneys for Defendant
EBSCO Publishing, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to the attorneys of record.

_____/s/ C. Whittaker Steineker

OF COUNSEL